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Honorable Timothy W. Dore
Chapter 7
Hearing Location: Seattle, Rm. 8106
Hearing Date: June 21, 2024
Hearing Time: 9:30 a.m.
Response Date: June 14, 2024

8 UNITED STATES BANKRUPTCY COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 In re:
12 WIRELESS ADVOCATES, LLC
13 Debtor.

Case No. 23-10117-TWD

**CHAPTER 7 TRUSTEE'S REPLY IN
SUPPORT OF MOTION FOR
AUTHORITY TO ABANDON AND
DESTROY RECORDS AND APPROVE
PAYMENT OF DISPOSITION COSTS**

14 Virginia Burdette, Chapter 7 Trustee (the "Trustee") for Wireless Advocates, LLC (the
15 "Debtor") respectfully asks that the Court issue an order that will alleviate the burden on the estate
16 imposed by maintaining voluminous hardcopy records at the Access facility, while addressing the
17 concerns raised in Car Toys, Inc.'s ("Car Toys") Response.

18 As Car Toys notes in its Response, the parties have resolved, via a CR2A stipulation, subject
19 to court approval, disputes as to the Trustee's claims for breaches of fiduciary duties against Car Toys
20 and the Debtor's former officers and directors (the "D&O Claims"), and the Trustee's counterclaim
21 against Mr. Brettler in *Brettler v. Burdette*, Adv. No. 23-01037 (the "Counterclaim"). The only actions
22 left on these matters are for the parties to finalize a formal written settlement agreement and obtain
23 court approval. Car Toys readily admits that "[i]f the Court approves the forthcoming settlement
24 agreement, then the Opposition will be moot regarding the D&O Claims and the Counterclaim as a
25 basis to deny the Motion" Dkt. 602 at 2. In its Response, Car Toys also raises a secondary concern
26

CHAPTER 7 TRUSTEE REPLY ISO MOTION FOR
AUTHORITY TO ABANDON AND DESTROY
RECORDS - 1

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1 that it is “unable to take a position” about whether the Access records are potentially relevant to the
2 WARN Act litigation and/or the Trustee’s threatened preference action against Car Toys. *Id.* at 3.

3 The Trustee has already continued this Motion for several months to accommodate prior
4 objections of Car Toys. The cost of records preservation exceeds \$15,000 per month. The Trustee
5 agrees to maintain the Access records until the court renders its decision on the settlement of the D&O
6 Claims and the Counterclaim, but requests authority to dispose of the records immediately if the Court
7 approves the settlement. The Trustee will make the Access records available for inspection by Car
8 Toys for thirty (30) days from the hearing on this Motion, so Car Toys can examine and take custody
9 of the records it deems relevant to any remaining litigation in satisfaction of any concerns of Car Toys
10 regarding spoilage of relevant records.

11 Accordingly, the Trustee respectfully requests that the Court issue an order: (1) authorizing the
12 Trustee to abandon and destroy the Access records within ten (10) days of approval of the D&O Claims
13 and Counterclaim settlements; (2) authorizing the Trustee to pay for the costs of such destruction or
14 disposition of the records; and (3) directing Car Toys, at its option, to inspect the Access records within
15 thirty (30) days of the hearing on this Motion and take custody of such documents as it deems
16 necessary in satisfaction of any obligations of the Trustee to preserve such records.

17 Dated this 18th day of June, 2024.

18 K&L GATES LLP

19 /s/ Ruby A. Nagamine

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*Attorneys for Virginia Burdette, Chapter 7
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CERTIFICATE OF SERVICE

The undersigned declares as follows:

That she is a practice assistant in the law firm of K&L Gates LLP, and on June 18, 2024, she caused the foregoing document to be filed electronically through the CM/ECF system which caused Registered Participants to be served by electronic means, as fully reflected on the Notice of Electronic Filing.

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

Executed on the 18th day of June, 2024 at Seattle, Washington.

/s/ Denise A. Lentz

Denise A. Lentz